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## OUR "HOUSE OF LORDS."

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UNDER the title-lines of "Lords and Commons : the customary hostility between the two Houses getting under way," there recently appeared among the New York press dispatches from the Capital this noteworthy telegraphic message :

"WASHINGTON, *December 18.*—The customary antagonism between the Senate and the House is coming to the surface, and will undoubtedly grow as the session progresses. The feeling seems to have no specific grounds, but each House, judged by its general tone, regards the other as its natural enemy, to be fought at all points. The Senate, as usual, claims that its passed measures are neglected until they accumulate formidably, proving gross disrespect for the superior body. The House, on its part, alleges that the Senate tampers too much with its financial legislation, in the way of amendments, and altogether exceeds its proper functions. It is evident that some very radical members regard the Upper House as a sort of American House of Lords—ornamental but not extremely useful. But people here are accustomed to the growl."

It is probable that this paragraph may be the first statement that the reader has seen of a "customary antagonism," of a constantly increasing spirit of hostility, between the House of Representatives and the Senate of the United States. Yet both its existence and its growth have been recognized for many years past, and especially since the close of the Civil War. The constitutional cause of it has been one of the most potent, although one of the most silent influences, that has determined the policy of our political parties both in their domestic and foreign relations.

Before the Civil War the Constitution was our national fetic. To doubt the wisdom of its founders was heresy. The Union that they founded was our Ark of the Covenant : whoso laid unhalloved hands on it was guilty of an unpardonable sin. We see, now, that we were only whitewashing the sepulchers of the Fathers ; that we were whistling these antique continental airs to

keep our courage up as we drew nearer and nearer to the death-bed of the old Constitution and to the grave of the "Union of the Fathers."

The secession of the South changed the mental attitude of the nation to the Federal Constitution. The North rose from its knees among the grave-stones, and it no longer tried to decipher their moss-grown records. We ceased to ask what the dead Fathers had said, and cared only to know what the living sons should do. The shot at Sumter proclaimed that the South had thrown off its political allegiance to the Union and its intellectual allegiance to the founders of the Constitution; and the answering tinkle of Mr. Seward's little bell announced that the North had resolved to show the nations that democracy did not depend for its stability on written constitutions or "balances of power," or on an idolatrous respect for traditions, but on the purposes, the patriotism and the wisdom of its living defenders; not on the genius of its statesmen or warriors, even, but on the common sense and the common courage of the common people.

Democracy stood this ordeal of fire. General after general failed, statesman after statesman fell; but the common people never once faltered or despaired. The force of a literary education, in its spirit essentially oligarchical, would have led Americans to see in Lincoln, as they once saw in Washington, the leader, without whose guiding wisdom the Union would have perished; but, at one of the most critical periods of the great struggle, when the gravest problems of restoration were ready to be solved, the bullet of an assassin, (like the rebel shot before), again proved that a democracy, encompassed by a people's love, can never be overthrown—that it never needs any one man to defend it or to save its life.

The idols of the Revolutionary era were broken in our civil strife. After nearly two millions of men had studied the science of war and taken part in our titanic struggles, it was no longer possible for them to hold in the same reverence that their boyish lessons had inspired, the military heroes of the Revolutionary war. Our soldiers learned the exact value of the military skill and achievements of the Fathers. But gratitude remained when reverence vanished. An intelligent respect supplanted an idolatrous worship. The soldiers whom Washington led were heroes still, but no longer the half-gods of our history. Bravery fosters respect for the brave, but it also inspires self-respect.

So, with the civil heroes of the Revolution. By the artillery fires of our contending armies, they were seen to have been able and honest men, but not men of superhuman wisdom, nor greater, but necessarily less enlightened than their living descendants. It was seen that they did well enough for their own day, but in the spirit of the Austrian who muttered "After me the Deluge," it was seen, also, that their dread of a failure to form an enduring Union induced them to establish their Union on inequalities and on injustice that could not endure. What they feared and guarded against, time has shown to have been the strongest bulwarks of our Government; and what they regarded as its strongest bulwarks time, also, has shown to have been the unfriendly powers that sought to destroy it.

Having hardly emerged from the Dead Sea of feudalism, and without the precedent of a successful democracy to guide their footsteps into the untrodden wilderness, the Fathers of the Union feared the people, and they sought by their "successive filtrations of the popular will" to establish a stable and pure government that should guard against the fickleness and corruption of a democracy. They dreaded lest the Federal Executive, for example, should have too much power and thereby endanger the independence of the States. They did not limit the existing suffrage, but they dared not establish universal suffrage.

Now, our history has demonstrated that political corruption is difficult in exact proportion to the extent of the constituency and the extension of the suffrage; that the nearer we come to a large, unrestricted popular vote, the more difficult it is to deceive or bribe the elector, or for conspiracies subsequently to "secure" the successful candidate; that it was the power of the States that sought, and the weakness of the Federal Executive that tended to disrupt the Union; and that the United States Senate, in which the feudal or undemocratic principle was intrenched, was more indifferent to what are called the rights of the States, which it was intended to protect, when party exigencies require their annulment, more unstable in its spirit than the House of Representatives, and less conservative, because less democratic in its character. Our history has shown that a democracy, instead of being fickle, is the most slow-moving—the least flexible—of all systems of government, because, in order to effect great changes in a democracy it is necessary, not to influence a single and restricted class,

as in Europe, but to overcome the prejudice or the indifference, and to win the enthusiasm and revolutionize the faith, of the millions who wield the power of the ballot.

Our history has shown that democracy has failed, as far as it has failed, just in proportion as an aristocratic element has been permitted to interfere with its operations ; that security of rights to life, liberty and property have been endangered in a democracy only when communities, classes or corporations have endeavored to destroy or tamper with that equality of rights, duties and burdens which is the essence of a democratic government.

Careful students of American national life have not failed to note that, since the close of the war, public men and political teachers very rarely refer to the opinions, and never appeal to the authority of the Fathers, as decisive. They defend the Constitution, or they advocate its amendment now, for reasons founded on the promotion of the national welfare. They look not at the setting but toward the rising sun. They tacitly admit—and the sentiment is well-nigh universal in the North—that ours is the "Union of the Boys in Blue," and that what are called the War Amendments of the Constitution were in fact, although not in form, the repealing acts, which abolished that once-revered instrument, and established for the first time in America a Union founded on equality of rights—a democratic Republic.

With such a spirit prevalent and spreading, is it likely that the prohibition of negro slavery and the enfranchisement of the blacks will be the only change that shall be made in the framework of the Federal Constitution ? Already Commerce complains that it costs too much to elect a President, and for several years past there has been presented to Congress every year, a memorial asking for the abolition of the Presidency. Will the Senate be exempt from the demand that, in every department of our public life, the touchstone of its utility and the guaranty of its stability shall be equality of rights ?

The student of the Constitution knows the reasons and precedents that justified, and the prejudices and jealousies that enforced, the creation of the Senate of the United States. But what constitutional lawyers commonly ignore is that the ruling spirit of our day is the spirit with which Milton declared, when Luther's authority was quoted against him : "What care I for Luther's name unless I am convinced by Luther's reason ?" The reasons that

were most potent one hundred years ago have no force to-day in commending the Senate, as now constituted and elected, to the intelligent respect of the rising generation, among whom (traditional authority having no influence) new theories of political and social development and administration are now widely and critically studied. Before this spirit, soon, or by and by, every institution that cannot justify its existence by its utility will be sure to be cast into the ash-pit of history.

The Federal Senate is out of joint with our times. It is an incorporation of the distrust and dread of democracy, which our history has shown to be unmerited and unwise. It is the American reproduction of that inequality of representation, once known as the rotten-borough system of England, which even in that earthly paradise of caste could not longer be tolerated. It is a denial of equal rights erected into an institution; a withered and useless branch of the tree of our national life. It is a constant hindrance to the extension of our territory and to the purity and the stability of the rule of the people.

Now, there are two questions, often confounded, although they are essentially distinct, that should be separated and kept apart in the discussion of the use and character of the Federal Senate. Ought our present Senate to be abolished or reconstructed? For one, I think it ought to be reorganized on the basis of the equality not of States but of men. Ought there to be any Senate at all? For one, I think that a Senate is not wholly useless, although it is far less necessary than is so vehemently asserted by its defenders. But this second question is a problem of the far future and ought only to have a theoretical interest to the students of political science to-day.

The Federal Senate, as now organized, is founded on the rejection of the fundamental idea of American civilization—Equality of Rights. Its defenders say that it represents the Rights and Equality of the States. But this phrase “the rights of the States,” like the kindred phrase, “the rights of property,” is unscientific and misleading, and shields a multitude of sins against the people. “Property has its duties as well as its rights,” said a Scotch economist, and the empty sophism was welcomed as a revelation by one class and decreed a heresy by their opponents. Property has neither rights nor duties. Rights imply and demand duties, and duties can be done by sentient beings only. Citizens have rights

in property, derived from the consent of their fellow-citizens, and subject, therefore, to their modification and control ; but property in itself has neither rights to be denied nor limited, nor duties to be performed nor directed.

So, in the election of a Federal Senate, what is the meaning of this phrase "State Rights," which even the fierce fires of civil war have not yet wholly purged of its pestilential malignity ? Let us see.

It meant, once, before there existed an American People—when the white folks of North America were British subjects in British colonies, having no authority one over the other and no permanent political relations—that each colony, having acted during the war as a separate community, and each, as a separate community, having enjoyed before the war as much self-government as the world then knew, refused, on the return of peace with independence, to enter into a permanent confederation unless its sisters should guarantee the continuance of its political autonomy by giving it equal representation in the Senate as an equal State, with a representation also secured, based on equality of population, in the popular house of the National Legislature. This demand of the lesser States was granted. It was one of the compromises between justice and expediency, between the pretensions of a class and equality of rights, on which the Constitution was formed and the Union based. As our America was then six weeks, or more, distant from Europe, with little foreign trade, no complex rural and industrial life, no intricate financial nor vast commercial interests, no capitalist combinations nor labor organizations ; as the total population of the seventeen States of 1790 was less than that of the State of New York, and only a little more than that of Pennsylvania, to-day, it came to pass that the Senate was neither powerful enough to alarm men nor so anomalous as to offend them. Nor was the inequality of representation so conspicuous then, in those simple times, as in our own more elaborate civilization.

In 1790, the date of the first census, this was the order of the States, arranged according to population :

Virginia . . . . .	747,610.
[Less by 100,000 than the present population of Philadelphia.]	
Pennsylvania . . . . .	434,373
[Less by about 75,000 than the present population of Chicago.]	
North Carolina . . . . .	393 751
[Little, if at all, larger than the leading Southern city to-day.]	

Massachusetts.....	378,787
[Boston alone has now 566,663 inhabitants.]	
New York.....	340,120
[300,000 less than the present population of Brooklyn.]	
Maryland.....	319,728
[50,000 less than the population of Baltimore to-day.]	
South Carolina.....	249,073
[About the present population of Cincinnati.]	
Connecticut.....	237,946
[About the present population of San Francisco.]	
New Jersey.....	184,139
[32,000 less than the population of New Orleans to-day.]	
New Hampshire.....	141,885
[8,000 less than San Francisco.]	
Maine.....	96,540
[About 5,000 less than Louisville.]	
Vermont.....	85,425
[Smaller than the present population of Pittsburg.]	
Georgia.....	82,548
[Exactly 2 less than the present population of Jersey City.]	
Kentucky.....	73,677
[Less than the population of Indianapolis.]	
Rhode Island.....	68,285
[Only 6,000 more than the present population of New Haven.]	
Delaware.....	59,096
[The present population of Lowell.]	
Tennessee.....	35,691
[7,000 less than the present population of Nashville.]	

The total population of the seventeen States, in 1790, was 3,929,214—or 53,657 less than the population of the State of New York, in 1880. There is no doubt that the present population of the United States is fourteen times larger than it was at the close of the Revolutionary war.

Practically, then, any wise extension of a municipal government that recognized the supremacy of the town-meeting element in New England, and of the tobacco-raising element in the South, would have satisfactorily administered the domestic affairs of these young States, especially as they all and always had been essentially frontier communities, accustomed to self-government, educated to respect law by seeing daily the need of a common arbitrator, and especially as there was no radical diversity of race or religion, nor serious conflicts of commercial and industrial interests.

But, to-day, the Senate no longer represents communities similar in origin and identical in interest. No poor man can now be elected a Northern Senator—or so rarely that such a result excites instant comment; and especially from the less populous States.



The Senate is rapidly becoming the most aristocratic social club in America. It is the accidental millionaire, now thirsting for social recognition, or the corporation lawyer hungry for "bonanza fees," who seeks the honor of admission to its membership, or who can afford to enjoy so expensive a luxury.

The population of New York State, in 1880, was 5,083,810 ; that of Nevada was, by the same census, 62,265. But, at the last Presidential election, Nevada did not cast 13,000 votes, although the interest in the canvass was so great that every available ballot was brought out. Leading journals of the State have admitted that the present population of Nevada is not more than 40,000 souls, that it is constantly decreasing, and that the decadence cannot be stayed except by unexpected mineral discoveries. There is hardly a doubt, therefore, that before the close of the present year, the State of New York, estimating its increase at the ratio of the last decade, will have at least one hundred and thirty times the population of Nevada. Now, what justice is there in any theory or in any institution that demands that each and every American citizen living in Nevada, shall have the same power in the enactment of laws and the adoption of international treaties, that 130 citizens in New York enjoy ? Could any system be less democratic ? It is the rotten-borough system of England enlarged to continental proportions—the worst and the least defensible principle of an old monarchy adopted as a vital factor of government by a young Republic.

No wrong in Church or State, and no anomaly, ever lacked defenders. When it was proposed to abolish the rotten-borough system of England, the Tories denounced the proposed reform as a violation of "vested rights." The ready answer was that the nation had prior rights that ranked these vested prerogatives—that the interests of all the people were greater than the privileges of any one class of them. When it is asked, here, why a citizen in Nevada should have the power of 130 citizens in New York, the answer is—State Rights. But what is a State now ? A geographical aggregation of American citizens, which for a century has never been an independent community ; which, as a semi-sovereignty, has rendered no service to the nation that it had the power to withhold, even in the territories whose people have always been loyal to the Union. Whatever claim to sovereignty the old colonies may have advanced—although, in fact, not

one of the colonies ever was politically independent nor ever could have won political independence—it is surely inadmissible to argue to-day, that those human overflows of the East that we call the Far-west, or the North-west, or the South-west, carried with them any right to sovereignty that their natal communities have not voided.

The most vital and the successful argument advanced for the creation of a Federal Senate was that it would prevent the larger States from overpowering the less populous States. That fear was the sole basis of the second National Chamber, the pretext and apology for abandoning the republican idea of equality of rights. But here again the opposite danger was incurred. It has not been the great States, separately or in aggregations, that have threatened the rights of the small States, as they could have done in the House of Representatives, but it has been the less populous States that have ever violated the principle of equality and exhibited the tyranny of the minority. As a group, it was the South, the less populous aggregation, that sought to destroy the Union. It is the smaller States that dominate to-day.

Let us take New York as the basis of a vote in the Senate, and see how this inequality prevails, in a few instances only.

Let us begin in the far South-east. In Florida (population 269,493) every citizen has the same senatorial representation that in New York (population 5,083,810) it needs more than nineteen citizens to wield. Florida is a poor State ; Florida is an illiterate State ; Florida was a rebel State ; New York was loyal ; New York is educated ; New York is rich. That is, with equal representation, based on population—on the theory that all men in a Republic should have equal rights—Florida would have one Senator and New York nineteen Senators. Thus loyalty, education, and wealth—and all the civic and personal virtues that create and maintain great commonwealths—are punished by disfranchisement, and the opposite traits are rewarded : 19 to 1.

Let us take the next illustration from the far West. In Colorado, as represented in the Senate, every man has the same power as twenty-six men in New York. Colorado is not a State of homes and it never will be a populous State. Like Nevada it is a district of miners' cabins, and of cow-boys' huts ; of revolvers and canned fruit. Yet, until our Constitution is revised, however greatly their population may diminish, Colorado and Nevada, in

the Senate of the United States, will wield as much power as Pennsylvania and New York, however greatly *their* population may increase.

The State of Delaware has a smaller population than the city of Buffalo—in 1880, it had 8,500 less. In the Senate of the nation, every citizen of Delaware has as much power as thirty-five citizens of New York. Nothing in the history of Delaware, remote or recent, gives her citizens any claim to pre-eminence over the citizens of New York.

The reader can readily work out further illustrations by consulting the Census of 1880. Enough has been done to show how grave the injustice is, from the point of view of equality of human rights.

But this evil is not a sentimental grievance only. To present the view thus advanced, without arousing individual animosities, no reference has been made to the official and personal record of the men whom the minor States have selected, nor to the un-republican methods by which they are known to be elected, nor to the use that, when in great places, these little men from little States have made of their power thus illegitimately achieved. It may suffice to say that, as a rule, the character and caliber of the senators from the Southern States during the period when the whites were practically disfranchised, as well as from the Far Western States, will never be "pointed to with pride" (as the wrinkled political phrase is) by the future historian of the American Republic. That historian, if he cares to do so, will show, also, that the colossal corruptions that have characterized the annals of Congress during the last twenty years would never have been possible without the zealous aid of this class of senators.

Nor is the present character of the Senate, nor are the influences that are shaping its future, any practical vindication of its existence or any justification for the perpetuation of its inequalities. It is rapidly becoming a House of Millionaires, and of the attorneys of great corporations. At this very hour—the first week of January\*—five States are discussing "the claims" of senatorial candidates. From California comes the news that her chair is offered to the greatest millionaire of The Coast; in Rhode Island four millionaires are contesting for the prize; in Illinois a republican millionaire is struggling against a democratic millionaire; in

\* This article was written in January, 1885.

Pennsylvania both candidates are millionaires, while in our own State bullion is again pitted against brains. No wonder that a great journal of New York should say: "It seems as though only millionaires were eligible as candidates for the United States Senate."

To this "tendency to elevate men of wealth rather than of brains," the most thoughtful journal of New England attributes the marked decadence of ability that has been witnessed in the Senate during the last half-century, and especially since the close of the war, in the representatives both of the North and the South.

This tendency is an inevitable although an unhealthy development of our increase in wealth. It can only be cured by a change in the mode of electing senators—by making an illegitimate use of riches impossible, or as innoxious as may be, by enlarging the constituencies they shall represent.

The Senate, as now organized, is a constant hindrance to the extension of our domains and commerce. The opposition, almost universal, to the annexation of territory in the West Indies and in Northern Mexico, is founded, in intelligent minds, on the fear that the representation that the new communities would secure in the Senate would put our institutions in peril. We ought to annex tropical territory, and no policy would be wiser than a union with our Northern neighbors. But while such enlargement of our domain would benefit our commerce, it would be paying too great a price for it to give such petty communities as Newfoundland and Prince Edward Island—neither of them populous enough to make a third-class city—the same representation as New York and Pennsylvania. With a senate elected on the basis of equality of representation, such apprehensions would disappear, and the commerce and industries of the nation would be benefited, and its power and wealth increased.

What is the remedy? To abolish the Senate; or to reconstruct it on the basis of the equality of men, not of the equality of States? It would be possible to divide the country into a hundred senatorial districts, exactly equal in population—the boundaries to be run without reference to State lines—each senator thus representing half a million of souls; to elect each senator for a term of ten years, but ten of them to retire each year, so that every year would introduce a change of membership and yet the Senate be a permanent body not "liable to be influenced by every wave of popular excitement."

The senators thus chosen should be elected by universal suffrage. The States would preserve their governments unchanged, their autonomies untampered with, but, as States, have no Federal representation. It is the American people, not the States, that should rule the nation. Let the States rule themselves.

Or, if this exact justice should be resisted, a compromise could be made by which every State should have one senator but should be entitled to one additional senator for each half million of people. Nevada might still have one senator, but New York would have ten.

In the mean time, as the only House in which the American idea of Equality of Rights is practically recognized, the House of Representatives should resist that dangerous and constantly increasing innovation of the Senate—interference with appropriations. It is here that the corruption of the smaller States is injected into the body politic. The sole right of originating money supplies that is granted to the House of Representatives, implies also that it should have the sole power of originating every separate item of the Appropriation Bills. The Senate should be a House of Revision only. It is not the States that pay the taxes but the whole body of the people. The hand that holds the money holds the power. Until the House of Representatives thus asserts its rights and dignity, the Senate will continue to be regarded by its members as the "superior body"—an American House of Lords.